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Legal Department

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Subject:—

Opinion Under the Cotton Textiles (Control of Movements) Order, 1946

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Office of the R.L.A.

In paragraph 21 of his report the police Inspector, C.O.B., Ahmedabad, has stated that all the accused are dealers in waste yarn and that they purchased the stock of yarn in question from various mills as waste yarn which fact is apparent from the bills produced by them. He, therefore, argues, that as these dealers were not e xperts, it was not possible for them to find out that the yarn purchased by them from the mills was not wast e yarn as described by the mills. It is also said that the mills sell their good yarn only to their quota h olders and that such yarn is dearer than waste yarn or yarn hard waste. On the other hand, it appears that samples were taken from some of these yarn bales and tested by the Textile expert attached to the Textile Commissioner's office who came to the conclusion that the yarn in question was good weaving yarn.

2. I am not inclined to give the accused the benefit of their alleged ignorance. They are yarn merchants themselves and, therefore, more than anyone else, they are expected to have knowledge about the quality and the kind of the goods in which they are trading. They cannot be heard to plead that they were misled merely by the description given by the mills in the bills which were issued to them. It is extremely improbable that resting upon the assurance of that description they in their turn would sell the yarn as waste yarn or yarn hard wa ste when they had before them the prospect of realising higher prices by selling it as good weaving yarn w h ich in fact it was. I see therefore, no reason why they should not be prosecuted for breach of clause 4 of the Cotton Textiles (Control

3. It appears from paragraph 21 of the report of the Police Inspector, C.O.B., Ahmedabad, that the accused are unable to say that the yarn sent to a particular place was purchased from a particular mill. If there be no other evidence on the point, it would naturally be difficult to take any action against the mills.

Id/- 28/3

Remembrancer of Legal Affairs.

U.R. to C.S.D. No.2084 dated 1st March 1948.

The question for consideration is whether there is any provision by which the Provincial Government can control the movement of ropes, tapes, narrow i.e.finished products of yarn, inspite of the T.C's notification exempting those goods from the provisions of the Cotton Textiles (Control of Movement) Order, 1946.

Under the T.C's Notification No.108-TA/46(ii) dated 8-6-46 issued in pursuance of clause 6 of the Cotton Textiles (Control of Movement) Order, 1946, there is a restriction on the movement by road, rail or sea of cotton tapes and banding from the Bombay City, Ahmedabad Municipal Borough and Sholapur Municipal Borough except in cases provided in sub para (ii) of the proviso to para 1 of the said notification. Barring this, transport of tape and narrow by rail from any place in any zone to any place in that or any other zone is allowed by para 4 B of General permit No.1. I understand that yarn is treated as cotton textiles which is an essential commodity under section 2 (a) of the Essential Supplies (Temporary Powers) Act, 1946, the transport of which can be regulated under section 3 (d). While delegating the powers to make orders under section 3 (d) etc. By Government notification No. 73-1/TA/46 dated 28-12-46 to the Provincial Governments, the Central Government has imposed a condition that no order made by a Provincial Government in the exercise of those powers shall have effect in so far as it is repugnant to any order made under the said sub section (1) of section 3 by the Central Government. The Provincial Government cannot therefore make an order controlling the movement of these goods by rail which will be repugnant to the provisions of para 4 B of the General Permit No.1 The Procincial Government can control the movement of these goods by road, air, sea or inland navigation from places other than Bombay City, Ahmedabad Municipal Borough

and Sholapur Municipal Borough.

As regards the control on movement of ropes, I think rope which is made only out of yarn, with nothing more would undoubtedly be textile, particularly so if it is felt that it can be untwisted and would be inclined to say that if making it into rope yarn does not change its character in any sense, if may even be treated as yarn. But it is unnecessary to pursue that point, since as cotton textile it xxxx can be brought under a ban.

P.M.Lad/12/1.
Remembrancer of Legal Affairs.

U.R. to C.S.D. No.412 dated 13th Jan 1948.

S.I./11.7.56. 4c.

Office of the D.I.A.

Export of cotton piecegoods from Bombay to Karachi (which is now outside India) is prohibited under Government of India, Department of Commerce Notification No.CI-C.W. (1) /45 dated 3rd November 1945 which was issued under rule 84 (3) of the Defence of India Rules and which was continued in force under the Emergency Provisions (Continuance) Ordinance 1946 (XV of 1946) and is now continued under section 4 of the Imports and Exports (Control) Act, 1947 (XVIII of 1947). The Cotton Textiles (Control of Movement) Order, 1946 was made under Rule 81 (2) of the Defence of India Rules and now continues under the Essential supplies (Temporary Powers) Act, 1946. Clause 6 of t the said Order provides that the Textile Commissioner may by notification prohibit the transport of cloth etc. from any place within such area as is specified in the notifica tion to any place outside that area except under such conditions etc. as may be specified. In exercise of the powers conferr ed by the said Clause 6, the Textile Commissioner has issued Notif ication No. Iol-TA/46 (11), dated 8th June 1946 prohibiting t ransport of cloth etc. from Bombay City to any place outside t hat area without obtaining a movement permit and transport instructions from the Registration Officer. Persons found on t the docks attempting to transport cloth etc. by sea from B ombay City to Karachi are being prosecuted under this provisio n . For the purpose of this Clause it is immaterial whether the cloth is transported from Bombay City to Karachi or to any other place outside the City. This provisions is obviously made with a view to conserve the stock of cloth manufactured by the Bombay Mills and to regulate its movement. The Cotton Textile s (Control of Movement) Order, 1946 which is now an order deeme d to be made under the Essential Supplied (Temprorary Powers) Act, should prevail notwithstanding anything inconsistent therewith contained in any other enactment. (Please see Section 6 of the Essential Supplies (Temporary Powers) Act,

1946). The Police can therefore take action against the offenders who transport cloth by sea outside Bombay City in contravention of clause 6 of the Cotton Textiles (Control of Movement) Order 1946 read with Textile Commissioner's Notification No.101-TA/46 (11), dated 8th June 1946.

The Police can also enforce the Import and Export (Control) Act, 1947 in respect of export of cloth to Karachi from Bombay in respect of shipment of unauthorised cloth against which penalty is inflicted by the Customs Collector in view of the ~~Re~~ Provisions of section 186 of the Sea Customs Act which lays down that the award of penalty under the Act shall not prevent infliction of any other punishment to which the persons affec thereby is liable under any other law and similar provision in Section 5 of the Imports and Exports (Control) Act. However in view of the provisions of section 6 of the latter Act the complaint in such case has to be filed by the Customs Collector or officer of the Customs authorised by him and not by ~~the~~ the police.

P.M.L./5/5.

Remembrancer of Legal Affairs.

U.O.R. to C.S.D., No.4360 dated 5th May 1948.
S.I./11.7.56. 4c.